

MAR 30 2009

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JOEY MOSES,

Defendant - Appellant.

No. 08-30107

D.C. No. 2:06-cr-00071-EFS-1

MEMORANDUM^{*}

Appeal from the United States District Court
for the Eastern District of Washington
Edward F. Shea, District Judge, Presiding

Submitted March 18, 2009^{**}

Before: LEAVY, HAWKINS and TASHIMA, Circuit Judges.

Joey Moses appeals from the 35-year sentence imposed following his guilty-plea conviction for murder with use of a firearm, in violation of 18 U.S.C.

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

§§ 1111(a), 1153(a) and 8 U.S.C. § 924(c)(1)(A)(iii), respectively. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Moses contends his sentence is unreasonable, based on the district court's apparent finding that he was not credible. Despite its reservations, the district court granted a substantial assistance departure that allowed it to impose a sentence within the Guidelines, instead of imposing a life sentence. We conclude the sentence is reasonable. *See United States v. Carty*, 520 F.3d 984, 993 (9th Cir. 2008) (en banc).

AFFIRMED.